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7 **UNITED STATES DISTRICT COURT**
8 **FOR THE WESTERN DISTRICT OF WASHINGTON**
9 **AT SEATTLE**

10 CASEY INVESTIGATORS LLC, a Washington
11 Limited Liability Company, and MARIO A.
12 TORRES, an individual,

13 Plaintiffs,

14 v.

15 PRONTO PROCESS SERVICE, INC., a
16 Washington corporation; NORTHWEST RAIL
17 ENTERPRISES, INC., a Washington
18 corporation; MARK OWENS, an individual;
19 GREGORY and MARY LEE RUSTAND,
20 individually and as a married couple; DIANE
PEFLEY, an individual; A to Z LEGAL
SUPPORT SERVICES, a Washington business
entity; ROBERT G. LACK, an individual;
WASHINGTON STATE PROCESS SERVERS
ASSOCIATION, a Washington business
association; and NATIONAL ASSOCIATION
OF PROFESSIONAL PROCESS SERVERS, a
national business association,

Defendants.

The Honorable John C. Coughenour

Case No. CV04-1453 C

**DECLARATION OF JAMES G.
ZISSLER IN SUPPORT OF MOTION
TO COMPEL OR, IN THE
ALTERNATIVE, TO DISMISS ALL
CLAIMS AGAINST WPSA WITH
PREJUDICE**

Noted for: February 25, 2005

I, James G. Zissler, declare and state as follows:

1. I am over the age of 18 years. I am competent to testify and have personal
knowledge of the facts set forth in this declaration.

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**DECLARATION OF JAMES ZISSLER IN SUPPORT OF WPSA'S
MOTION TO COMPEL OR IN THE ALTERNATIVE TO DISMISS**

Case No. CV04-1453 C
Seattle:33796.1 048501.1002

JAMES G. ZISSLER
LITTLER MENDELSON, P.C.
Bank of America Tower
701 Fifth Avenue, Suite 6500
Seattle, WA 98104-7097
206.623.3300

1 2. I am counsel for the Washington State Process Servers Association (hereafter,
2 "WSPSA"). On November 10, 2004, I served Plaintiffs with WSPSA's First Set of
3 Interrogatories and Request for Production. Plaintiffs' counsel failed to serve a response and did
4 not request an extension within the 30 days provided to respond by the federal rules.

5 3. On December 29, 2004 I contacted Plaintiffs' counsel who assured me that
6 answers would be forthcoming over the next several days.

7 4. On January 10, 2005, by correspondence, I again contacted Plaintiffs' counsel
8 who responded that answers would be forthcoming.

9 5. On January 13, 2004, Plaintiffs' counsel provided the responses, a true and
10 correct copy of which are attached as Exhibit A to this declaration. No subsequent response has
11 been received.

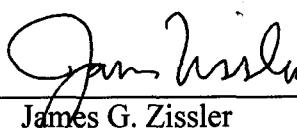
12 6. On January 21, 2005 I requested a FRCP Rule 37 conference (See Exhibit B to
13 Zissler Declaration), which was conducted on January 24, 2005. Plaintiffs' counsel stated that
14 he was unable to answer many of WSPSA's discovery requests because the information was
15 unavailable and he "hoped" to provide answers prior to the close of discovery. However, that
16 proposal would not allow for the filing of a timely motion to compel, if necessary. (See Exhibit
17 C. Zissler's January 31, 2005 correspondence to Plaintiff's counsel re Rule 37 conference.)

18 7. I personally do not believe that the Court should have to entertain contingent
19 motions such as this one. However, given Plaintiffs' failure to properly respond to discovery
20 requests and my obligations to my clients, I do not believe that I have a choice.

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**DECLARATION OF JAMES ZISSLER IN SUPPORT OF WSPSA'S
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Case No. CV04-1453 C
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206.623.3300

1 I declare under penalty of perjury under the laws of the United States that the foregoing is
2 true and correct.
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4 Dated: February 10, 2005, at Seattle, Washington
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James G. Zissler
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**DECLARATION OF JAMES ZISSLER IN SUPPORT OF WPSA'S
MOTION TO COMPEL OR IN THE ALTERNATIVE TO DISMISS**

Case No. CV04-1453 C
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